

A Summary of Proposed Amendments to the City's Zoning Ordinance is presented below:

INTRODUCTION

This notice identifies the proposed changes made to Gardner's Zoning Ordinance as part of the Zoning Ordinance Revision Project. This notice contains a summary of the Ordinance revision. A line-by-line comparison of the former Ordinance to the proposed revision is not feasible due to the comprehensive reorganization (including re-numbering) of the document and the numerous individual additions, deletions, and re-wordings. For this reason, this summary will highlight notable revisions by section. Complete copies of the revised Zoning Ordinance are available for review at the following locations: City Clerk's Office, City Hall, 95 Pleasant Street, Gardner, MA; Department of Community Development and Planning, City Hall Annex, 115 Pleasant Street, Gardner, MA; Levi Heywood Memorial Library, 55 West Lynde Street, Gardner, MA; and on the City's web site www.gardner-ma.gov

All sections have been brought up to date with Massachusetts General Laws as amended, and case law, as applicable.

REVISIONS BY SECTION

Section 1 General Provisions

The proposed Ordinance updates the Purpose section of the original Ordinance by assuring the breadth of the Statute and Article 89 of the Constitution are included in the Ordinance.

Additionally, we have set forth separate paragraphs defining and explaining the Authority, Scope, Applicability, Amendments and Separability of the Ordinance, all with the goal of making the document clearer and as up to date with current case and statutory authority.

Section 2 Definitions

All definitions have been updated, new definitions have been introduced where required, and unused definitions deleted. Examples include: adult day care, assisted living, convenience retail, family day care, home occupation, mixed use, etc.

Section 3 Use Districts

The new ordinance has discontinued the use of Roman numerals in favor of conventional numbering. The reference to the Flood Plain Overlay District has been consolidated in Section 510.

Section 4 Use Regulations

415 Table of Uses: New uses include: in-law apartment, assisted living facility, open space residential development, farmstand – non-exempt, adult social day care, municipal use, mixed use, convenience retail. Modified uses include: Hotel/motel, bed and breakfast, civic center, professional office within a principal residence, home occupation, retail store, motor vehicle service & repair, fast food restaurant, transport terminal, family day care. Trailer and mobile home park use has been deleted from the ordinance.

420 Non-Conforming Uses and Structures: The proposed changes in this section clarify the difference between non-conforming use and non-conforming structure and the provisions that govern each. Further, the changes make the ordinance consistent with existing case and statutory law and codify what practices the city already has in place. Examples have been provided to better facilitate the applicant, enforcement officer and review board with the application of these provision.

425 Abandonment and Non-use: The proposed addition codifies locally existing law as well as previous practice by the Enforcement Officer and Zoning Board of Appeals.

Section 5 Overlay Districts and Planned Unit Developments

510 Flood Plain District: This section was changed to reflect the current FEMA requirements for Flood Plain Districts. These changes are intended to help facilitate the inclusion of Gardner in the Federal Emergency Management flood insurance programs. The exemption of a portion of Greenwood Brook from High Street to East Broadway has been left in pending additional discussions with FEMA and the State's Flood Hazard Management Program.

520 Water Supply Protection District: The overall purpose of the changes to this section is to provide an Ordinance which can be read and interpreted in conjunction with the Massachusetts Drinking Water Regulations and provide for uniform and previously defined and widely recognized definitions and terminology. The changes more clearly set forth what is expected of applicants applying to do work within the District and provide clearer standards of review for the permit granting authority as well as the enforcing authority.

The Table of Uses within this district was amended based upon the state regulations so as to bring the provision in compliance with state law.

The review process is more delineated and the ongoing requirements and expectations from the applicants are more fully set forth, including but not limited to timing of application and hearings, review periods, details for plan submissions and expectations as to the technical standards under which the plans will be reviewed as well as the requirements of the narrative accompanying a submission.

540 Smart Growth Planned Unit Development (SGPUD): Planned Unit Developments are specifically mentioned in M.G.L. to address cases where the development of larger lots may be best shaped by a special permit review process. The SGPUD is designed to allow for a mix of residential (up to 50%) and commercial uses to occur in areas that are convenient to transportation options, and such uses are laid out in a manner that adheres to the principles of "smart growth." The requirements of this PUD are drafted so as to not preclude Gardner from participating in the State's new "Smart Growth Zoning Overlay District Program" (a.k.a. Chapter 40R).

550 Industrial and Commercial Heritage Planned Unit Development (ICHPUD): This PUD is targeted for the IND1, IND2, and COM1 zones, and is designed to encourage the redevelopment of long-vacant historic industrial and commercial structures through the issuance of a special permit. Historic structures are intended to be preserved and re-used. A mix of residential (up to 50%) and commercial uses are permitted.

Section 6 Density and Dimensional Regulations

610 General Requirements: A new method for defining lot width has been added.

620 Table of Lot, Area, Frontage, Yard, and Height Requirements: Key changes include:

- the DEPTH IN FEET column has been eliminated;
- the integration of dimensional requirements for multifamily use which are located in the "apartment requirements" section of the existing ordinance;
- a % Open Space Required column has been added;
- maximum building heights have been added for the GR3, COM1, COM2, IND1, and IND2 zones;
- RR2 minimum lot area has been increased for lots serviced by public sewer from 40,000 to 60,000. This is intended to encourage the use of the Open Space Residential Development (OSRD), since density calculations for the OSRD are based upon a 40,000 s.f./unit minimum lot area. The side yard setback in the RR2 has been increased from 10 to 20 feet.

630 Infill Development: A new provision to encourage the redevelopment of vacant lots located in densely-developed areas allows redevelopment that is consistent with adjacent structures by Special Permit.

Section 7 Off-Street Parking and Loading Standards

752 Schedule of Parking Uses: Required Parking Spaces have been updated to reflect current recommendations of the Institute of Traffic Engineers (ITE).

760 Standard Dimensional Regulations: Reduced dimensions for small cars have been deleted.

770 Design Requirements for Parking Lots and Facilities: Layout, landscaping and lighting requirements have been added. In addition, design guidelines for structured parking facilities have been added.

Section 8 Special Residential Regulations

810 Open Space Residential Development: The Cluster Development provision of the existing ordinance has been modified to reflect a greater emphasis on the protection of natural resources and the layout of the required common open space. Developers are required to identify priority conservation areas prior to locating house lots. Fifty percent (50%) of the tract is required to be common open space, which is to be laid out in large, contiguous parcels and preserved in perpetuity. Ownership of the open space may be conveyed to the City, to a non-profit conservation organization, or to a trust owned by the homeowners association. Lot area, frontage and setbacks are more flexible in an effort to promote the use of OSRD.

820 In-Law Apartments: In response to a desire to allow extended families to live together, a provision to allow one small (no greater than 900 s.f.) apartment to be part of a single-family home use has been added. Homes with in-law apartments must maintain their single-family appearance, and building or special permits issued for in-law apartment use must be filed with the property deed.

830 Home Occupations: This use is largely unregulated in the existing ordinance (defined as an accessory use). This section was added to ensure that home occupations have no outward impact or visibility, and are allowed in all residential districts and in the COM1.

Section 9 Signs and Advertising Devices

No changes have been made to this section.

Section 10 Supplemental Regulations

1000 Schedule Development: Added to the list of exemptions are in-fill development, the SGPUD, and the ICHPUD. An Applicable Period of not to exceed eight (8) years has been added because of a recent SJC decision.

1010 Site Plan Review: The threshold for site plan review is lowered from 7,500 s.f. to 5,000 s.f. for new developments and from 5,000 s.f. to 2,500 s.f. for additions. The SGPUD and the ICHPUD are added to those uses requiring site plan review. Community Impact Standards have been expanded to include commercial building design guidelines.

1030 Adult Uses

The changes which are proposed in this provision are best described as providing more clarity and clean-up of this provision. With regard to the Purpose section, the proposed changes bring it more into conformity with generally accepted terminology and existing case law.

- The special permit introduction is changed as it is repetitive with the intent of Special Permits and the Purpose section of this provision.
- Condition descriptions are altered to include more comprehensive listings and more precise definitions taken directly from the statute.
- Site Development Standards were changed to add a more direct reference to the Site Plan Review Standards and the language is changed to clarify that these provisions are in addition to the general Site Plan review guidelines of the Ordinance.
- Body Art has been added to this provision and falls under the same Special Permit criteria.

Section 1040 Wind Energy Conversion

A change is proposed in this section which requires the creation of a Fall Area easement by any applicant seeking to permit a Wind Energy Conversion Device. A Fall Area easement will provide some assurance to the City that the applicant has sited the Device such that it will minimize any potential disaster to occur on a publicly traveled way or area.

Section 1060 Earth Moving and Alteration

The changes proposed in this section reflect the request of the Committee to provide further and more detailed regulation in this area. The former section, Removal of Earth Products has been broadened to include fill as well as removal. Additionally, performance standards have been added, and the circumstance under which this provision applies, and does not apply, has been clarified. All subdivisions which propose to alter 50 or more acres of land or to construct two or more miles of new street are required to seek a Special Permit.

Section 11 Administration

The changes in this section clarify the ordinance, resolve prior conflicts or vagaries that existed as well as help to provide flexibility and more teeth in the enforcement provision of the ordinance. Additionally, the changes bring the provisions into compliance with current case and statutory law.

The following table highlights the uses for which special permits are required and the Special Permit Granting Authority:

Summary of Special Permit Responsibilities

Special Permit Required	City Council Special Permit	ZBA Special Permit	PB Special Permit
SP required in the Table of Uses		X	
SP required re: non-conforming uses and structures		X	
Development Overlay District	X		
Open Space Residential District			X
In-Fill Development			X
Smart Growth PUD			X
Industrial & Commercial Heritage PUD			X
Relief from Parking Requirements		X	
Earth Moving and Alteration			X
Adult Uses		X	
Flood Plain bldgs., sheds not accessory to Flood Plain uses		X	
Water Supply Protection District SP			X
Wireless Communication		X	